

1 Rule 3-104. Presiding judges.

2 Intent:

3 To establish the procedure for election, term of office, role, responsibilities and  
4 authority of presiding judges and associate presiding judges.

5 Applicability:

6 This rule shall apply to presiding judges and associate presiding judges in the  
7 District and Juvenile Courts.

8 Statement of the Rule:

9 (1) Election and term of office.

10 (1)(A) Presiding judge. The presiding judge in multi-judge courts shall be elected by  
11 a majority vote of the judges of the court. The presiding judge's term of office ~~is~~  
12 ~~presumed to shall~~ be at least two years. A district, by majority vote of the judges of the  
13 court, ~~may opt for a one year term of office and~~ may re-elect a judge to serve  
14 successive terms of office as presiding judge. In the event that a majority vote cannot  
15 be obtained, the presiding judge shall be appointed by the presiding officer of the  
16 Council to serve for two years.

17 (1)(B) Associate presiding judge.

18 (1)(B)(i) In a court having more than two judges, the judges may elect one judge of  
19 the court to the office of associate presiding judge. An associate presiding judge shall  
20 be elected in the same manner and serve the same term as the presiding judge in  
21 paragraph (1)(A).

22 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall  
23 assume the responsibilities of the presiding judge. The associate presiding judge shall  
24 perform other duties assigned by the presiding judge or by the court.

25 (1)(C) A presiding judge or associate presiding judge may be removed as the  
26 presiding judge or associate presiding judge by a two-thirds vote of all judges in the  
27 district. A successor presiding judge or associate presiding judge shall then be selected  
28 as provided in this rule.

29 (2) Court organization.

30 (2)(A) Court en banc.

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing ~~judicial business~~ the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

~~(2)(A)(v)~~ (2)(A)(vi) Minutes of each meeting shall be taken and preserved.

~~(2)(A)(vi)~~ (2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

~~(2)(A)(vii)~~ (2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge ~~may~~ shall be ~~by supplemental court rule or~~ at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) Administrative responsibilities and authority of presiding judge.

(3)(A)(i) Generally. The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties

to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) Caseload. Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) Coordination of judicial schedules.

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(D) Outside agencies and the media.

(3)(D)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court at ceremonial functions.

(3)(D)(ii) Generally, the presiding judge or at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(E) Docket management and case and judge assignments.

(3)(E)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(E)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(E)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the Administrative Office, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(E)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

~~(3)(F) Local supplemental rules.~~

~~(3)(F)(i) Prior to submission of a local supplemental rule to the Board, the presiding judge shall submit the rule to a vote of the judges of that jurisdiction. Upon a majority vote, the rule shall be submitted to the Board and the Council for review, adoption and ratification as provided in this Code.~~

~~(3)(F)(ii) The presiding judge shall ensure that copies of local supplemental rules are available and disseminated to interested persons.~~

(3)(G) Court executives.

(3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by the state court administrator and must concur in the appointment before it can be effected. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive.

(3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall jointly develop an annual performance plan for the court executive.

(3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the preparation of an evaluation of the court executive's performance for the previous year, also taking into account input from all judges in the district.

(3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive, including coordination of annual leave.

(3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the non-judicial administration of the court. The presiding

judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the general administration of the court including budget, facility planning, long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator.

(3)(H) Courtrooms and facilities. The presiding judge shall ~~coordinate~~direct the assignment of courtrooms and facilities ~~in accordance with supplemental court rules~~.

(3)(I) Recordkeeping. Consistently with Council policies, the court executive, in consultation with the presiding judge, shall:

(3)(I)(i) coordinate the compilation of management and statistical information necessary for the administration of the court;

(3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of these policies;

(3)(I)(iii) approve proposals for ~~computerization~~automation within the court in compliance with administrative rules.

(3)(J) Budgets. The ~~presiding judge court executive~~, in consultation with the ~~court executive~~presiding judge, shall oversee the development of the budget for the court.

In ~~courts for which the county clerk serves as the clerk of court, the presiding judge~~contact sites, the court executive shall supervise the preparation and management of the county budget for the court on an annual basis and in accordance with Utah Code Ann. Section 78-3-29(5).

(3)(K) Judicial officers. In the event that another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge ~~shall consider one or more of the following options may~~:

(3)(K)(i) Meet with and ~~E~~explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

~~(3)(K)(ii) Reevaluate the position.~~

~~(3)(K)(iii) If the problem persists, determine the available alternatives. Discuss and evaluate the alternatives with the judge.~~

~~(3)(K)(iv)~~ (3)(K)(ii) Discuss the position with other judges and reevaluate the position.

~~(3)(K)(v)~~ (3)(K)(iii) Present the problem to the court en banc or a committee of judges for ~~a recommendation or establish a procedure within the court for resolving disputes between judges and the presiding judge, such as requiring the judge and the presiding judge to state in writing, within a stated and reasonable time, the reasons for their positions input.~~

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

~~(3)(K)(vi) Refer the problem to a higher authority such as the appropriate Board the Judicial Council or to the Chief Justice.~~

~~(3)(K)(vii) Where~~ In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, ~~and~~ continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement.

(3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination.

(3)(L)(ii) Once a month each judge shall submit a ~~signed~~ statement on a form to be provided by the Administrative Office notifying the presiding judge of any cases or issues held under advisement for more than ~~60 days~~ two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than ~~60 days to the Chair of the appropriate Board~~ two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the ~~Board~~ state level administrator shall report that fact to the Council.

(3)(M) Board of judges. The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) Supervision and evaluation of court commissioners. The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.